

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JAMES H. GORBEY, JR., Administrator :
of the Estate of Marissa Rose Fishman, :
Deceased, :
Plaintiff, :
v. : Civil Action No. 05-211-MPT
RICHARD LONGWILL, et al., :
Defendants. :

Amended Scheduling Order

At Wilmington this 4th day of June, 2007.

A teleconference was held on May 15, 2007. During the teleconference, modifications to the scheduling order were discussed. As a result of that teleconference,

IT IS ORDERED that the Scheduling Order is modified as follows:

1. Plaintiffs' Amended Complaint shall be due or before May 25, 2007.
2. Defendants' Answers to the Amended Complaint shall be due on or before June 14, 2007.
3. Discovery Cut Off: All discovery in this case shall be initiated so that it will be completed on or before July 31, 2007.
4. Discovery Disputes. Should counsel find they are unable to resolve a discovery dispute, the party seeking the relief shall contact chambers at (302) 573-6173 to schedule a telephone conference. Not less than forty-eight hours prior to the

conference, the party seeking relief shall file with the Court a letter, not to exceed three pages, outlining the issues in dispute and its position on those issues. (The Court does not seek extensive argument or authorities at this point; it seeks simply a statement of the issue to be addressed and a summary of the basis for the party's position on the issue.) Not less than twenty-four hours prior to the conference, any party opposing the application for relief may file a letter, not to exceed three pages, outlining that party's reasons for its opposition. **Should any document(s) be filed under seal, a copy of the sealed document(s) must be provided to the Magistrate Judge within one (1) hour of e-filing the document(s).** Should the Court find further briefing necessary upon conclusion of the telephone conference, the Court will order it. Disputes over protective orders are to be addressed in the first instance in accordance with this paragraph.

5. Summary Judgment Motions. Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief shall be no longer than five (5) pages and shall be filed with the Court no later than August 15, 2007. Answering letter briefs shall be no longer than five (5) pages and filed with the court no later than August 29, 2007. Reply letters briefs shall be no longer than three (3) pages and filed with the Court no later than September 10, 2007. A telephonic Status Conference to hear argument and to determine whether the filing of any motion for summary judgment will be permitted is scheduled for September 19, 2007 at 4:30 p.m. Counsel for the Ashland defendants shall initiate the teleconference.

6. Case Dispositive Motions. If allowed, all case dispositive motions and

opening brief and affidavits in support of the motion shall be served and filed on or before October 12, 2007 . Briefing will be presented pursuant to the court's Local Rules, unless the parties agree to an alternative briefing schedule. Any such agreement shall be in writing and filed with the Court for the Court's approval.

7. Pretrial Conference. On April 3, 2008, the Court will hold a Final Pretrial Conference in Chambers with counsel beginning at 9:00 a.m. Unless otherwise ordered by the Court, the parties should assume that filing the pretrial order satisfies the pretrial disclosure requirement of Federal Rule of Civil Procedure 26(a)(3). The parties shall file with the Court the joint proposed final pretrial order with the information required by the form of Final Pretrial Order which accompanies this Scheduling Order on or before March 20, 2008.

8. Motions in Limine. Motions *in limine* shall not be separately filed. All *in limine* requests and responses thereto shall be set forth in the proposed pretrial order. Each party shall be limited to five *in limine* requests, unless otherwise permitted by the Court. The *in limine* request and any response shall contain the authorities relied upon; each *in limine* request may be supported by a maximum of three pages of argument and may be opposed by a maximum of three pages of argument. If more than one party is supporting or opposing an *in limine* request, such support or opposition shall be combined in a single three (3) page submission, unless otherwise ordered by the Court. No separate briefing shall be submitted on *in limine* requests, unless otherwise permitted by the Court.

9. Jury Instructions, Voir Dire, and Special Verdict Forms. Where a case is to be tried to a jury, pursuant to Local Rules 47 and 51 the parties should file

proposed voir dire, instructions to the jury, and special verdict forms and jury interrogatories three full business days before the final pretrial conference. That submission shall be accompanied by a computer diskette (in WordPerfect format) which contains the instructions, proposed voir dire, special verdict forms, and jury interrogatories.

10. Trial. This matter is scheduled for a five (5) day jury trial beginning at 9:30 a.m. on April 28, 2008 with the remaining trial days beginning at 9:00 a.m. For the purpose of completing pretrial preparations, counsel should plan on each side being allocated a total of 13 hours to present their case.

/s/ Mary Pat Thyng
UNITED STATES MAGISTRATE JUDGE